



EXTRAORDINARY

PART II—Section 1

PUBLISHED BY AUTHORITY

No. 43] NEW DELHI, FRIDAY, AUGUST 12, 1955

MINISTRY OF LAW

New Delhi, the 12th August, 1955

The following Act of Parliament received the assent of the President on the 10th August, 1955 and is hereby published for general information:—

THE CODE OF CRIMINAL PROCEDURE
(AMENDMENT) ACT, 1955

No. 26 OF 1955

[10th August, 1955]

An Act further to amend the Code of Criminal Procedure, 1898
BE it enacted by Parliament in the Sixth Year of the Republic of India as follows:—

1. Short title and commencement.—(1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 1955.

(2) It shall come into force on such date or dates as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different States and for different provisions of this Act.

2. Amendment of section 4, Act V of 1898.—In section 4 of the Code of Criminal Procedure, 1898 (hereinafter referred to as the principal Act), in clause (w) of sub-section (1), for the words “transportation or imprisonment for a term exceeding six months”, the words “imprisonment for life or imprisonment for a term exceeding one year” shall be substituted.

3. Amendment of section 9, Act V of 1898.—For sub-section (2) of section 9 of the principal Act, the following sub-section shall be substituted, namely:—

“(2) The State Government may, by general or special order in the Official Gazette, direct at what place or places the Court

of Session shall ordinarily hold its sitting; but if, in any particular case, the Court of Session is of opinion that it will tend to the general convenience of the parties and witnesses to hold its sitting at any other place in the sessions division, it may, with the consent of the prosecution and the accused, sit at that place for the disposal of the case or the examination of any witness or witnesses therein".

4. Amendment of section 14, Act V of 1898.—In sub-section (1) of section 14 of the principal Act, after the words "any person", the words "who holds or has held any judicial post under the Union or a State or possesses such other qualifications as may, in consultation with the High Court, be specified in this behalf by the State Government by notification in the Official Gazette" shall be inserted.

5. Amendment of section 29B, Act V of 1898.—In section 29B of the principal Act, for the word "transportation", the word "imprisonment" shall be substituted.

6. Substitution of new section for section 30 in Act V of 1898.—For section 30 of the principal Act, the following section shall be substituted, namely:—

"30. Offences punishable with imprisonment not exceeding seven years.—Notwithstanding anything contained in section 28 or section 29, the State Government may, in consultation with the High Court, invest any District Magistrate, Presidency Magistrate or Magistrate of the first class with power to try as a Magistrate all offences not punishable with death or with imprisonment for life or with imprisonment for a term exceeding seven years:

Provided that no District Magistrate, Presidency Magistrate or Magistrate of the first class shall be invested with such powers unless he has, for not less than ten years, exercised as a Magistrate powers not inferior to those of a Magistrate of the first class."

7. Amendment of section 31, Act V of 1898.—In sub-section (3) of section 31 of the principal Act, for the words "of transportation for a term exceeding seven years or of imprisonment for a term exceeding seven years", the words "of imprisonment for life or of imprisonment for a term exceeding ten years" shall be substituted.

8. Amendment of section 32, Act V of 1898.—In sub-section (1) of section 32 of the principal Act,—

(i) in clause (a), for the words "one thousand", the words "two thousand" shall be substituted;

(ii) in clause (b), for the words "two hundred", the words "five hundred" shall be substituted;

(iii) in clause (c), for the word "fifty", the words "one hundred" shall be substituted.

9. Amendment of section 34, Act V of 1898.—In section 34 of the principal Act, for the words "transportation for a term exceeding seven years", the words "imprisonment for life" shall be substituted.

10. Amendment of section 35, Act V of 1898.—In sub-section (1) of section 35 of the principal Act, the words "or transportation" shall be omitted.

11. Amendment of section 45, Act V of 1898.—In sub-section (1) of section 45 of the principal Act, after the words “management of that land”, the words and brackets “and every member of a village panchayat, other than a judicial panchayat (where such panchayat, by whatever name called, is constituted under any law for the time being in force)” shall be inserted.

12. Amendment of section 46, Act V of 1898.—In sub-section (3) of section 46 of the principal Act, for the word “transportation”, the word “imprisonment” shall be substituted.

13. Amendment of section 47, Act V of 1898.—In section 47 of the principal Act, for the words “the person residing”, the words “any person residing” shall be substituted.

14. Amendment of section 90, Act V of 1898.—In section 90 of the principal Act, the words “or assessor” shall be omitted.

15. Amendment of section 103, Act V of 1898.—In sub-section (3) and sub-section (4) of section 103 of the principal Act, the words “at his request” shall be omitted.

16. Amendment of section 107, Act V of 1898.—For sub-section (2) of section 107 of the principal Act, the following sub-section shall be substituted, namely:—

“(2) Proceedings under this section may be taken before any Magistrate empowered to proceed under sub-section (1) when either the place where the breach of the peace or disturbance is apprehended is within the local limits of such Magistrate’s jurisdiction or there is within such limits a person who is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act as aforesaid beyond such limits.”

17. Amendment of section 117, Act V of 1898.—For sub-section (2) of section 117 of the principal Act, the following sub-section shall be inserted, namely:—

“(2) Such inquiry shall be made, as nearly as may be practicable, in the manner hereinafter prescribed for conducting trials and recording evidence in summons cases.”

18. Amendment of section 145, Act V of 1898.—In section 145 of the principal Act,—

(a) to sub-section (1), the words “and further requiring them to put in such documents, or to adduce, by putting in affidavits, the evidence of such persons, as they rely upon in support of such claims” shall be added;

(b) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) The Magistrate shall then, without reference to the merits or the claims of any of such parties to a right to possess the subject of dispute, peruse the statements, documents and affidavits, if any, so put in, hear the parties and conclude the inquiry, as far as may be practicable, within a period of two months from the date of the appearance of the parties before him and, if possible, decide the question whether any and which of the parties was at the date of the

order before mentioned in such 'possession of the said subject:

Provided that the Magistrate may, if he so thinks fit, summon and examine any person whose affidavit has been put in as to the facts contained therein:

Provided further that, if it appears to the Magistrate that any party has within two months next before the date of such order been forcibly and wrongfully dispossessed, he may treat the party so dispossessed as if he had been in possession at such date:

Provided also that, if the Magistrate considers the case one of emergency, he may at any time attach the subject of dispute, pending his decision under this section.”;

(c) in sub-section (6), for the words “first proviso” wherever they occur, the words “second proviso” shall be substituted.

19. Amendment of section 146, Act V of 1898.—In section 146 of the principal Act, for sub-section (1), the following sub-sections shall be substituted, namely:—

“(1) If the Magistrate is of opinion that none of the parties was then in such possession, or is unable to decide as to which of them was then in such possession, of the subject of dispute, he may attach it, and draw up a statement of the facts of the case and forward the record of the proceeding to a Civil Court of competent jurisdiction to decide the question whether any and which of the parties was in possession of the subject of dispute at the date of the order as explained in sub-section (4) of section 145; and he shall direct the parties to appear before the Civil Court on a date to be fixed by him:

Provided that the District Magistrate or the Magistrate who has attached the subject of dispute may withdraw the attachment at any time, if he is satisfied that there is no longer any likelihood of a breach of the peace in regard to the subject of dispute.

(1A) On receipt of any such reference, the Civil Court shall peruse the evidence on record and take such further evidence as may be produced by the parties respectively, consider the effect of all such evidence, and after hearing the parties, decide the question of possession so referred to it.

(1B) The Civil Court shall, as far as may be practicable, within a period of three months from the date of the appearance of the parties before it, conclude the inquiry and transmit its finding together with the record of the proceeding to the Magistrate by whom the reference was made; and the Magistrate shall, on receipt thereof, proceed to dispose of the proceeding under section 145 in conformity with the decision of the Civil Court.

(1C) The costs, if any, consequent on a reference for the decision of the Civil Court, shall be costs in the proceedings under this section.

(1D) No appeal shall lie from any finding of the Civil Court given on a reference under this section nor shall any review or revision of any such finding be allowed.

(1E) An order under this section shall be subject to any subsequent decision of a Court of competent jurisdiction."

20. Amendment of section 147, Act V of 1898.—In section 147 of the principal Act,—

(a) in sub-section (1), for the words and figures "in the manner provided in section 145, and the provisions of that section shall, as far as may be, be applicable in the case of such inquiry", the words "in the manner hereinafter provided" shall be substituted;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) The Magistrate shall then peruse the statements so put in, hear the parties, receive all such evidence as may be produced by them respectively, consider the effect of such evidence, take such further evidence, if any, as he thinks necessary and, if possible, decide whether such right exists and the provisions of section 145 shall, as far as may be, be applicable in the case of such inquiry."

21. Amendment of section 160, Act V of 1898.—To section 160 of the principal Act, the following proviso shall be added, namely:—

"Provided that no male person under the age of fifteen years or woman shall be required to attend at any place other than the place in which such male person or woman resides."

22. Substitution of new section for section 162 in Act V of 1898.—For section 162 of the principal Act, the following section shall be substituted, namely:—

"162. *Statements to police not to be signed; use of statements in evidence.*—(1) No statement made by any person to a police officer in the course of an investigation under this Chapter shall, if reduced into writing, be signed by the person making it; nor shall any such statement or any record thereof, whether in a police diary or otherwise, or any part of such statement or record, be used for any purpose (save as hereinafter provided) at any inquiry or trial in respect of any offence under investigation at the time when such statement was made:

Provided that when any witness is called for the prosecution in such inquiry or trial whose statement has been reduced into writing as aforesaid, any part of his statement, if duly proved, may be used by the accused, and with the permission of the Court, by the prosecution, to contradict such witness in the manner provided by section 145 of the Indian Evidence Act, 1872 (1 of 1872), and when any part of such statement is so used, any part thereof may also be used in the re-examination of such witness, but for the purpose only of explaining any matter referred to in his cross-examination.

(2) Nothing in this section shall be deemed to apply to any statement falling within the provisions of section 32, clause (1) of the Indian Evidence Act, 1872 (1 of 1872), or to affect the provisions of section 27 of that Act."

23. Amendment of section 173, Act V of 1898.—In section 173 of the principal Act, for sub-section (4), the following sub-sections shall be substituted, namely:—

“(4) After forwarding a report under this section, the officer in charge of the police station shall, before the commencement of the inquiry or trial, furnish or cause to be furnished to the accused, free of cost, a copy of the report forwarded under sub-section (1) and of the first information report recorded under section 154 and of all other documents or relevant extracts thereof, on which the prosecution proposes to rely, including the statements and confessions, if any, recorded under section 164 and the statements recorded under sub-section (3) of section 161 of all the persons whom the prosecution proposes to examine as its witnesses.

(5) Notwithstanding anything contained in sub-section (4), if the police officer is of opinion that any part of any statement recorded under sub-section (3) of section 161 is not relevant to the subject-matter of the inquiry or trial or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interests, he shall exclude such part from the copy of the statement furnished to the accused and in such a case, he shall make a report to the Magistrate stating his reasons for excluding such part:

Provided that at the commencement of the inquiry or trial, the Magistrate shall, after perusing the part so excluded and considering the report of the police officer, pass such orders as he thinks fit and if he so directs, a copy of the part so excluded or such portion thereof, as he thinks proper, shall be furnished to the accused.”

24. Amendment of section 196A, Act V of 1898.—In clause (2) of section 196A of the principal Act, for the word “transportation”, the words “imprisonment for life” shall be substituted.

25. Insertion of new section 198B in Act V of 1898.—After section 198A of the principal Act, the following section shall be inserted, namely:—

“198B. Prosecution for defamation against public servants in respect of their conduct in the discharge of public functions.—

(1) Notwithstanding anything contained in this Code, when any offence falling under Chapter XXI of the Indian Penal Code (Act XLV of 1860) (other than the offence of defamation by spoken words) is alleged to have been committed against the President, or the Vice-President, or the Governor or Rajpramukh of a State, or a Minister, or any other public servant employed in connection with the affairs of the Union or of a State, in respect of his conduct in the discharge of his public functions, a Court of Session may take cognizance of such offence, without the accused being committed to it for trial, upon a complaint in writing made by the Public Prosecutor.

(2) Every such complaint shall set forth the facts which constitute the offence alleged, the nature of such offence and such

other particulars as are reasonably sufficient to give notice to the accused of the offence alleged to have been committed by him.

(3) No complaint under sub-section (1) shall be made by the Public Prosecutor except with the previous sanction,—

(a) in the case of the President or the Vice-President or the Governor or Rajpramukh of a State, of any Secretary to the Government authorised by him in this behalf;

(b) in the case of a Minister of the Central Government or of a State Government, of the Secretary to the Council of Ministers, if any, or of any Secretary to the Government authorised in this behalf by the Government concerned;

(c) in the case of any other public servant employed in connection with the affairs of the Union or of a State, of the Government concerned.

(4) No Court of Session shall take cognizance of an offence under sub-section (1), unless the complaint is made within six months from the date on which the offence is alleged to have been committed.

(5) When the Court of Session takes cognizance of an offence under sub-section (1), then, notwithstanding anything contained in this Code, the Court of Session shall try the case without a jury and in trying the case shall follow the procedure prescribed for the trial by Magistrates of warrant cases instituted otherwise than on a police report and the person against whom the offence is alleged to have been committed shall, unless the Court of Session, for reasons to be recorded otherwise directs, be examined as a witness for the prosecution.

(6) If in any case instituted under this section, the Court of Session by which the case is heard discharges or acquits all or any of the accused, and is of opinion that the accusation against them or any of them was false and either frivolous or vexatious, the Court of Session may, by its order of discharge or acquittal, direct the person against whom the offence was alleged to have been committed (other than the President, Vice-President or the Governor or Rajpramukh of a State) to show cause why he should not pay compensation to such accused or to each or any of such accused, when there are more than one.

(7) The Court of Session shall record and consider any cause which may be shown by the person so directed and if it is satisfied that the accusation was false and either frivolous or vexatious, it may, for reasons to be recorded, direct that compensation to such amount, not exceeding one thousand rupees, as it may determine, be paid by such person to the accused or to each or any of them.

(8) All compensation awarded under sub-section (7) may be recovered as if it were a fine.

(9) No person who has been directed to pay compensation under sub-section (7) shall, by reason of such order, be exempted from any civil or criminal liability in respect of the complaint made under this section:

Provided that any amount paid to an accused person under this section shall be taken into account in awarding compensation to such person in any subsequent civil suit relating to the same matter.

(10) The person who has been ordered under sub-section (7) to pay compensation may appeal from the order, in so far as the order relates to the payment of the compensation, as if he had been convicted in a trial held by the Court of Session.

(11) When an order for payment of compensation to an accused person is made in a case which is subject to appeal under sub-section (10), the compensation shall not be paid to him before the period allowed for the presentation of the appeal has elapsed, or, if an appeal is presented, before the appeal has been decided.

(12) For the purposes of this section, the expression "Court of Session" includes the High Courts at Calcutta and Madras in the exercise of their original criminal jurisdiction.

(13) The provisions of this section shall be in addition to, and not in derogation of, those of section 198.

26. Amendment of section 200, Act V of 1898.—In section 200 of the principal Act, for the words "examine the complainant upon oath, and the substance of the examination shall be reduced to writing and shall be signed by the complainant", the words "examine the complainant and the witnesses present, if any, upon oath and the substance of the examination shall be reduced to writing and shall be signed by the complainant and the witnesses" shall be substituted.

27. Amendment of section 203, Act V of 1898.—In section 203 of the principal Act, after the words "of the complainant", the words "and the witnesses" shall be inserted.

28. Amendment of section 204, Act V of 1898.—In section 204 of the principal Act, after sub-section (1), the following sub-sections shall be inserted, namely:—

"(1A) No summons or warrant shall be issued against the accused under sub-section (1) until a list of the prosecution witnesses has been filed.

(1B) In a proceeding instituted upon a complaint made in writing, every summons or warrant issued under sub-section (1) shall be accompanied by a copy of such complaint."

29. Substitution of new sections for section 207 in Act V of 1898.—For section 207 of the principal Act, the following sections shall be substituted, namely:—

207. Procedure in inquiries preparatory to commitment.—In every inquiry before a Magistrate where the case is triable exclusively by a Court of Session or High Court, or, in the opinion of the Magistrate, ought to be tried by such Court, the Magistrate shall,—

(a) in any proceeding instituted on a police report, follow the procedure specified in section 207A; and

(b) in any other proceeding, follow the procedure specified in the other provisions of this Chapter.

207A. *Procedure to be adopted in proceedings instituted on police report.*—(1) When, in any proceeding instituted on a police report, the Magistrate receives the report forwarded under section 173, he shall, for the purpose of holding an inquiry under this section, fix a date which shall be a date not later than fourteen days from the date of the receipt of the report, unless the Magistrate, for reasons to be recorded, fixes any later date.

(2) If, at any time before such date, the officer conducting the prosecution applies to the Magistrate to issue a process to compel the attendance of any witness or the production of any document or thing, the Magistrate shall issue such process unless, for reasons to be recorded, he deems it unnecessary to do so.

(3) At the commencement of the inquiry, the Magistrate shall, when the accused appears or is brought before him, satisfy himself that the documents referred to in section 173 have been furnished to the accused and if he finds that the accused has not been furnished with such documents or any of them, he shall cause the same to be so furnished.

(4) The Magistrate shall then proceed to take the evidence of such persons, if any, as may be produced by the prosecution as witnesses to the actual commission of the offence alleged; and if the Magistrate is of opinion that it is necessary in the interests of justice to take the evidence of any one or more of the other witnesses for the prosecution, he may take such evidence also.

(5) The accused shall be at liberty to cross-examine the witnesses examined under sub-section (4), and in such case, the prosecutor may re-examine them.

(6) When the evidence referred to in sub-section (4) has been taken and the Magistrate has considered all the documents referred to in section 173 and has, if necessary, examined the accused for the purpose of enabling him to explain any circumstances appearing in the evidence against him and given the prosecution and the accused an opportunity of being heard, such Magistrate shall, if he is of opinion that such evidence and documents disclose no grounds for committing the accused person for trial, record his reasons and discharge him, unless it appears to the Magistrate that such person should be tried before himself or some other Magistrate, in which case he shall proceed accordingly.

(7) When, upon such evidence being taken, such documents being considered, such examination (if any) being made and the prosecution and the accused being given an opportunity of being heard, the Magistrate is of opinion that the accused should be committed for trial, he shall frame a charge under his hand, declaring with what offence the accused is charged.

(8) As soon as such charge has been framed, it shall be read and explained to the accused and a copy thereof shall be given to him free of cost.

(9) The accused shall be required at once to give in, orally or in writing, a list of the persons, if any, whom he wishes to be summoned to give evidence on his trial:

Provided that the Magistrate may, in his discretion, allow the accused to give in his list or any further list of witnesses at a subsequent time; and, where the accused is committed for trial before the High Court, nothing in this sub-section shall be deemed to preclude the accused from giving, at any time before his trial to the Clerk of the State a further list of the persons whom he wishes to be summoned to give evidence on such trial.

(10) When the accused, on being required to give in a list under sub-section (9), has declined to do so, or when he has given in such list, the Magistrate may make an order committing the accused for trial by the High Court or the Court of Session, as the case may be, and shall also record briefly the reasons for such commitment.

(11) When the accused has given in any list of witnesses under sub-section (9) and has been committed for trial, the Magistrate shall summon the witnesses included in the list to appear before the Court to which the accused has been committed:

Provided that where the accused has been committed to the High Court, the Magistrate may, in his discretion, leave such witnesses to be summoned by the Clerk of the State and such witnesses may be summoned accordingly:

Provided also that if the Magistrate thinks that any witness is included in the list for the purpose of vexation or delay, or of defeating the ends of justice, the Magistrate may require the accused to satisfy him that there are reasonable grounds for believing that the evidence of such witness is material, and if he is not so satisfied, may refuse to summon the witness (recording his reasons for such refusal), or may before summoning him require such sum to be deposited as such Magistrate thinks necessary to defray the expense of obtaining the attendance of the witness and all other proper expenses.

(12) Witnesses for the prosecution, whose attendance before the Court of Session or High Court is necessary and who appear before the Magistrate, shall execute before him bonds binding themselves to be in attendance when called upon by the Court of Session or High Court to give evidence.

(13) If any witness refuses to attend before the Court of Session or High Court, or execute the bond above directed, the Magistrate may detain him in custody until he executes such bond or until his attendance at the Court of Session or High Court is required, when the Magistrate shall send him in custody to the Court of Session or High Court as the case may be.

(14) When the accused is committed for trial, the Magistrate shall issue an order to such person as may be appointed by the State Government in this behalf, notifying the commitment, and stating the offence in the same form as the charge; and shall send the charge, the record of the inquiry and any weapon or other thing which is to be produced in evidence, to the Court of Session or where the commitment is made to the High Court, to the Clerk of the State or other officer appointed in this behalf by the High Court.

(15) When the commitment is made to the High Court and any part of the record is not in English, an English translation of such part shall be forwarded with the record.

(16) Until and during the trial, the Magistrate shall, subject to the provisions of this Code regarding the taking of bail, commit the accused by warrant to custody.

30. Amendment of section 208, Act V of 1898.—In sub-section (1) of section 208 of the principal Act, for the words "The Magistrate shall", the words "In any proceeding instituted otherwise than on a police report, the Magistrate shall" shall be substituted.

31. Amendment of section 227, Act V of 1898.—In sub section (1) of section 227 of the principal Act,—

(i) after the words "in the case of trials", the words "by jury" shall be inserted;

(ii) the words "or the opinions of the assessors are expressed" shall be omitted.

32. Amendment of section 247, Act V of 1898.—In section 247 of the principal Act, for the proviso, the following proviso shall be substituted, namely:—

"Provided that where the Magistrate is of opinion that the personal attendance of the complainant is not necessary, the Magistrate may dispense with his attendance, and proceed with the case."

33. Amendment of section 250, Act V of 1898.—In sub-section (2) of section 250 of the principal Act, for the words "one hundred rupees or, if the Magistrate is a Magistrate of the third class, not exceeding fifty rupees", the words "one-half of the amount of fine he is empowered to impose" shall be substituted.

34. Substitution of new sections for section 251 in Act V of 1898.—For section 251 of the principal Act, the following sections shall be substituted, namely:—

"251. *Procedure in warrant cases.*—In the trial of warrant cases by Magistrates, the Magistrate shall,—

(a) in any case instituted on a police report, follow the procedure specified in section 251A; and

(b) in any other case, follow the procedure specified in the other provisions of this Chapter.

251A. *Procedure to be adopted in cases instituted on police report.*—(1) When, in any case instituted on a police report, the accused appears or is brought before a Magistrate at the commencement of the trial, such Magistrate shall satisfy himself that the documents referred to in section 173 have been furnished to the accused, and if he finds that the accused has not been furnished with such documents or any of them, he shall cause them to be so furnished.

(2) If, upon consideration of all the documents referred to in section 173 and making such examination, if any, of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless, he shall discharge him.

(3) If, upon such documents being considered, such examination, if any, being made and the prosecution and the accused being given an opportunity of being heard, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter, which such Magistrate is competent to try, and which, in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused.

(4) The charge shall then be read and explained to the accused and he shall be asked whether he is guilty or claims to be tried.

(5) If the accused pleads guilty, the Magistrate shall record the plea and may, in his discretion, convict him thereon.

(6) If the accused refuses to plead, or does not plead, or claims to be tried, the Magistrate shall fix a date for the examination of witnesses.

(7) On the date so fixed, the Magistrate shall proceed to take all such evidence as may be produced in support of the prosecution:

Provided that the Magistrate may permit the cross-examination of any witness to be deferred until any other witness or witnesses have been examined, or recall any witness for further cross-examination.

(8) The accused shall then be called upon to enter upon his defence and produce his evidence; and if the accused puts in any written statement, the Magistrate shall file it with the record.

(9) If the accused, after he has entered upon his defence, applies to the Magistrate to issue any process for compelling the attendance of any witness for the purpose of examination or cross-examination, or the production of any document or other thing, the Magistrate shall issue such process unless he considers that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice. Such ground shall be recorded by him in writing:

Provided that, when the accused has cross-examined or had the opportunity of cross-examining any witness after the charge is framed, the attendance of such witness shall not be compelled under this section, unless the Magistrate is satisfied that it is necessary for the purposes of justice.

(10) The Magistrate may, before summoning any witness on such application under sub-section (9), require that his reasonable expenses incurred in attending for the purpose of the trial be deposited in court.

(11) If, in any case under this section in which a charge has been framed, the Magistrate finds the accused not guilty, he shall record an order of acquittal.

(12) Where in any case under this section, the Magistrate does not proceed in accordance with the provisions of section 349

or section 562, he shall, if he finds the accused guilty, pass sentence upon according to law.

(13) In a case where a previous conviction is charged under the provisions of section 221, sub-section (7), and the accused does not admit that he has been previously convicted as alleged in the charge, the Magistrate may, after he has convicted the said accused under sub-section (5) or sub-section (12), take evidence in respect of the alleged previous conviction, and shall record a finding thereon."

35. Amendment of section 252, Act V of 1898.—In sub-section (1) of section 252 of the principal Act, for the words "When the accused appears", the words "In any case instituted otherwise than on a police report, when the accused appears" shall be substituted.

36. Amendment of section 260, Act V of 1898.—In sub-section (1) of section 260 of the principal Act,—

(a) for the word "transportation", the words "imprisonment for life" shall be substituted;

(b) for the words "fifty rupees" wherever they occur, the words "two hundred rupees" shall be substituted.

37. Substitution of new section for section 264 in Act V of 1898.—For section 264 of the principal Act, the following section shall be substituted, namely:—

"264. *Record in appealable cases.*—In every case tried summarily by a Magistrate or Bench in which an appeal lies, such Magistrate or Bench shall record the substance of the evidence and also the particulars mentioned in section 263 and shall, before passing any sentence, record a judgment in the case."

38. Substitution of new section for section 268 in Act V of 1898.—For section 268 of the principal Act, the following section shall be substituted, namely:—

"268. *Trials before Court of Session.*—All trials before a Court of Session shall be either by jury or by the Judge himself."

39. Amendment of section 269, Act V of 1898—In section 269 of the principal Act,—

(a) in sub-section (3), for the words "by the Court of Session, with the aid of jurors as assessors", the words "by the Judge himself" shall be substituted;

(b) after sub-section (3) the following sub-section shall be inserted, namely —

"(1) When, in respect of a trial in which the accused is charged with an offence triable by jury, it appears to the High Court, on an application made to it or otherwise, that having regard to the volume or complexity of the evidence in the case, the trial is not likely to be concluded within two weeks from its commencement, or that the case would involve consideration of evidence of a highly technical nature, which renders it undesirable that it should be tried by a jury, the High Court may, notwithstanding anything contained in any order made under sub-section (1), by order, direct that

that case shall be tried by the Judge himself without a jury and the Judge shall proceed to try the case accordingly."

40 Substitution of new section for section 272 in Act V of 1898.—For section 272 of the principal Act, the following section shall be substituted, namely:—

"272 Refusal to plead or claim to be tried—If the accused refuses to, or does not, plead, or if he claims to be tried, the Court shall, in a case triable by jury, proceed to choose jurors as hereinafter directed and to try the case, but in any other case, the Judge shall proceed to try the case himself:

Provided that, in cases triable by jury, the same jury may, subject to the right of objection hereinafter mentioned, try as many accused persons successively as the Court thinks fit'

41 Amendment of section 274, Act V of 1898.—In sub section (2) of section 274 of the principal Act,—

(i) for the word "five" the word "seven" shall be substituted;

(ii) in the proviso, for the words "shall consist of not less than seven persons and, if practicable, of nine persons", the words "shall consist, if practicable, of nine persons" shall be substituted

42. Substitution of new section for section 282 in Act V of 1898.—For section 282 of the principal Act, the following section shall be substituted, namely:—

"282 Procedure when juror ceases to attend, etc—(1) If, in the course of a trial by jury at any time before the return of the verdict,—

(a) any juror, from any sufficient cause, is prevented from attending the trial on any day, or

(b) if any juror absents himself and it is not practicable to enforce his attendance, or

(c) if it appears that any juror is unable to understand the language in which the evidence is given or, when such evidence is interpreted, the language in which it is interpreted,

the Court, in any case falling under clause (a), may either adjourn the trial or discharge the juror and in any case falling under clause (b) or clause (c), shall discharge the juror, and in any case where any juror is so discharged, the jury shall be deemed to be reconstituted with the remaining jurors as if the jury had consisted of such persons only from the commencement of the trial and the trial shall proceed before the jury so reconstituted, and notwithstanding anything contained elsewhere in this Code, such trial shall not be invalid by reason only of the fact that the number of persons originally constituting the jury has been reduced.

(2) Notwithstanding anything contained in sub-section (1), if, in the course of a trial by jury, the number of persons constituting the jury is so reduced that,—

(a) when the jury originally consisted of nine persons, it falls below seven, or

(b) when the jury originally consisted of seven persons, it falls below five,

the jury shall be discharged and a new jury chosen, and in each of such cases, the trial shall commence anew."

43. Omission of sections 284 and 285 in Act V of 1898.—Section 284 and section 285 of the principal Act shall be omitted.

44. Amendment of section 286, Act V of 1898.—In section 286 of the principal Act, in sub-section (1), for the words "When the jurors or assessors have been chosen", the words "In a case triable by jury, when the jurors have been chosen or, in any other case, when the Judge is ready to hear the case" shall be substituted.

45. Amendment of section 287, Act V of 1898.—In section 287 of the principal Act, for the word "duly", the words "if any" shall be substituted.

46. Amendment of section 289, Act V of 1898.—In sub-section (2) and sub-section (3) of section 289 of the principal Act, for the words "in a case tried with the aid of assessors" wherever they occur, the words "in a case tried by the Judge himself" shall be substituted.

47. Amendment of section 291, Act V of 1898.—In section 291 of the principal Act, after the words "in sections", the figures and letter "207A" shall be inserted.

48. Amendment of section 293, Act V of 1898.—In section 293 of the principal Act, the words "or assessors" wherever they occur shall be omitted.

49. Amendment of section 294, Act V of 1898.—In section 294 of the principal Act, the words "or assessor" shall be omitted.

50. Amendment of section 295, Act V of 1898.—In section 295 of the principal Act, the words "or assessors" shall be omitted.

51. Amendment of section 297, Act V of 1898.—To section 297 of the principal Act, the following words shall be added, namely:—

"and the charge to the jury shall, wherever practicable, be taken down in shorthand in the language in which it is delivered and a transcript thereof signed by the Judge shall form part of the record" .

52. Amendment of section 301, Act V of 1898.—In section 301 of the principal Act, after the words "verdict of a majority", the words "or that the jurors are equally divided in opinion" shall be inserted.

53. Amendment of section 302, Act V of 1898.—In section 302 of the principal Act, after the words "although they are not unanimous", the words "or the foreman may inform the Judge that the jurors are still equally divided in opinion" shall be inserted.

54. Amendment of section 307, Act V of 1898.—In section 307 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) If, in any such case, the jurors are equally divided in opinion on all or any of the charges on which any accused person has been tried, the Judge shall submit the case in respect of such accused person to the High Court recording his opinion on

such charge or charges and the grounds of his opinion, and in such case, if the accused is further charged under the provisions of section 310, he shall proceed to try him on such charge as if the verdict of the jury had been one of conviction."

55. Substitution of new sub-head and new section for sub-head H and section 309 in Act V of 1898.—For sub-head H and section 309 of the principal Act, the following shall be substituted, namely:—

"H—Conclusion of trial in cases tried by the Judge himself.

309. Judgment in cases tried by the Judge himself.—(1)
When, in a case tried by the Judge himself, the case for the defence and the prosecutor's reply (if any) are concluded, the Judge shall give a judgment in the case.

(2) If the accused is convicted, the Judge shall, unless he proceeds in accordance with the provisions of section 562, pass sentence on him according to law"

56. Amendment of section 310, Act V of 1898.—In section 310 of the principal Act,—

(a) for the words "or with the aid of assessors", the words "or by the Judge himself" shall be substituted;

(b) for sub-clause (ii) of clause (a), the following sub-clause shall be substituted, namely:—

"(ii) in the case of a trial by a jury, the jury have delivered their verdict on the charge of the subsequent offence;"

(c) in clause (b), for the words "held with the aid of assessors", the words "held by the Judge himself" shall be substituted.

57. Amendment of section 319, Act V of 1898.—In section 319 of the principal Act,—

(a) the word "male" shall be omitted;

(b) the words "or assessors" shall be omitted.

58. Amendment of sub-head K and sections 320, 321, 324, 326, 327, 328, 329, 330, 331, 332 and 339A, Act V of 1898.—In sub-head K and sections 320, 321, 324, 326, 327, 328, 329, 330, 331, 332 and 339A, the words "and assessors", "or assessor", "or assessors", "or as an assessor", "or as assessor, as the case may be", "or assessor, as the case may be" and "and trials with the aid of assessors", wherever they occur, shall be omitted.

59. Amendment of section 337, Act V of 1898.—In section 337 of the principal Act,—

(a) in sub-section (1),—

(i) for the words and figures "which may extend to ten years, or any offence punishable under section 211 of the Indian Penal Code with imprisonment which may extend to seven years", the words "which may extend to seven years" shall be substituted;

(ii) after the words "the Indian Penal Code, namely, sections", the figures and letter "161, 165, 165A" shall be inserted;

(b) after sub-section (2A), the following sub-section shall be inserted, namely:—

"(2B) In every case where the offence is punishable under section 161 or section 165 or section 165A of the Indian Penal Code (Act XLV of 1860) or sub-section (2) of section 5 of the Prevention of Corruption Act, 1947 (II of 1947), and where a person has accepted a tender of pardon and has been examined under sub-section (2), then, notwithstanding anything contained in sub-section (2A), a Magistrate shall, without making any further inquiry, send the case for trial to the Court of the Special Judge appointed under the Criminal Law Amendment Act, 1952 (XLVI of 1952).

60. Amendment of section 342, Act V of 1898.—In section 342 of the principal Act, for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) No oath shall be administered to the accused when he is examined under sub-section (1)".

61. Insertion of new section 342A in Act V of 1898.—After section 342 of the principal Act, the following section shall be inserted, namely:—

"342A. *Accused person to be competent witness.*—Any person accused of an offence before a Criminal Court shall be a competent witness for the defence and may give evidence on oath in disproof of the charges made against him or any person charged together with him at the same trial:

Provided that—

(a) he shall not be called as a witness except on his own request in writing; or

(b) his failure to give evidence shall not be made the subject of any comment by any of the parties or the Court or give rise to any presumption against himself or any person charged together with him at the same trial."

62. Amendment of section 344, Act V of 1898.—In section 344 of the principal Act,—

(a) sub-section (1) shall be re-numbered as sub-section (1A) of that section and the following sub-section shall be inserted as sub-section (1) thereof, namely:—

"(1) In every inquiry or trial, the proceedings shall be held as expeditiously as possible and in particular, when the examination of witnesses has once begun, the same shall be continued from day to day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded";

(b) in sub-section (1A) as so re-numbered, after the proviso, the following further proviso shall be inserted, namely:—

“Provided further that when witnesses are in attendance, no adjournment or postponement shall be granted, without examining them, except for special reasons to be recorded in writing.”

63. Amendment of section 345, Act V of 1898.—In section 345 of the principal Act, for the table next following sub-section (2), the following table shall be substituted, namely:—

Offence	Sections of the Indian Penal Code applicable	Persons by whom offence may be compounded
Voluntarily causing hurt by dangerous weapons or means.	324	The person to whom hurt is caused.
Voluntarily causing grievous hurt	325	Ditto.
Voluntarily causing grievous hurt on grave and sudden provocation.	335	Ditto.
Causing hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	337	Ditto.
Causing grievous hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	338	Ditto.
Wrongfully confining a person for three days or more.	343	The person confined
Wrongfully confining for 10 or more days . .	344	Ditto.
Wrongfully confining a person in secret . . .	346	Ditto.
Assault or criminal force in attempting wrongfully to confine a person.	357	The person assaulted or to whom the force was used.
Theft, where the value of property stolen does not exceed two hundred and fifty rupees.	379	The owner of the property stolen.
Theft by clerk or servant of property in possession of master, where the value of the property stolen does not exceed two hundred and fifty rupees.	381	Ditto.
Dishonest misappropriation of property . .	403	The owner of the property misappropriated.
Criminal breach of trust, where the value of the property does not exceed two hundred and fifty rupees,	406	The owner of the property in respect of which the breach of trust has been committed.

Offence	Sections of the Indian Penal Code applicable	Persons by whom offence may be compounded
Criminal breach of trust by a carrier, wharfinger, etc., where the value of the property does not exceed two hundred and fifty rupees.	407	The owner of the property in respect of which the breach of trust has been committed.
Criminal breach of trust by a clerk or servant, where the value of property does not exceed two hundred and fifty rupees.	408	Ditto.
Cheating	417	The person cheated.
Cheating a person whose interest the offender was bound, by law or by legal contract, to protect.	418	Ditto.
Cheating by personation	419	Ditto.
Cheating and dishonestly inducing delivery of property or the making, alteration or destruction of a valuable security.	420	Ditto.
Fraudulent removal or concealment of property, etc., to prevent distribution among creditors.	421	The creditors who are affected thereby.
Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	422	Ditto.
Fraudulent execution of deed of transfer containing false statement of consideration.	423	The person affected thereby.
Fraudulent removal or concealment of property.	424	Ditto.
Mischief by killing or maiming animal of the value of ten rupees or upwards.	428	The owner of the animal.
Mischief by killing or maiming cattle, etc., of any value or any other animal of the value of fifty rupees or upwards.	429	The owner of the cattle or animal.
Mischief by injury to work of irrigation by wrongfully diverting water when the only loss or damage caused is loss or damage to a private person.	430	The person to whom the loss or damage is caused.
House-trespass to commit an offence (other than theft) punishable with imprisonment.	451	The person in possession of the house trespassed upon.
Using a false trade or property mark	482	The person to whom loss or injury caused by such use

Offence	Sections of the Indian Penal Code applicable	Persons by whom offence may be compounded
Counterfeiting a trade or property mark used by another.	483	The person whose trade or property mark is counterfeited.
Knowingly selling, or exposing or possessing for sale or for trade or manufacturing purpose, goods marked with a counterfeit trade or property mark.	486	The person whose trade or property mark is counterfeited.
Marrying again during the life-time of a husband or wife.	494	The husband or wife of the person so marrying.
Uttering words or sounds or making gestures or exhibiting any object intending to insult the modesty of a woman or intruding upon the privacy of a woman.	509	The woman whom it was intended to insult or whose privacy was intruded upon."

64. Amendment of section 350, Act V of 1898.—In sub-section (1) of section 350 of the principal Act, for the words "or he may re-summon the witnesses and re-commence the inquiry or trial" and the proviso, the following proviso shall be substituted, namely:—

"Provided that if the succeeding Magistrate is of opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interests of justice, he may re-summon any such witness and after such further examination, cross-examination and re-examination, if any, as he may permit, the witness shall be discharged".

65. Amendment of section 356, Act V of 1898.—In section 356 of the principal Act,—

(a) in sub-section (1),—

(i) for the words "in the language of the Court by the Magistrate or Sessions Judge", the words "in the language of the Court either by the Magistrate or Sessions Judge with his own hand or from his dictation in open Court" shall be substituted;

(ii) for the words "shall be signed by the Magistrate or Sessions Judge", the words "the evidence so taken down shall be signed by the Magistrate or Sessions Judge and shall form part of the record" shall be substituted;

(b) in sub-section (2), after the words "with his own hand", the words "or cause it to be taken down in writing in that language from his dictation in open Court" shall be inserted;

(c) in sub-section (3), for the words "In cases in which the evidence is not taken down in writing by the Magistrate or

Sessions Judge", the words "In cases in which the Magistrate or Sessions Judge does not either take down the evidence with his own hand or cause it to be taken down in writing from his dictation in open Court" shall be substituted.

66. Amendment of section 367, Act V of 1898.—For sub-section (5) of section 367 of the principal Act, the following sub-section shall be substituted, namely:—

"(5) In trials by jury, the Court need not write a judgment, but the Court of Session shall record the heads of the charge to the jury:

Provided that it shall not be necessary to record such heads of the charge in cases where the charge has been delivered in English and taken down in shorthand."

67. Amendment of section 368, Act V of 1898.—Sub-section (2) of section 368 of the principal Act shall be omitted.

68. Amendment of section 371, Act V of 1898.—In section 371 of the principal Act,—

(a) in sub-section (2), after the words "charge to the jury", the words and figures "or, where a transcript of the charge forms part of the record under section 297, a copy of such transcript" shall be inserted; and

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) When the accused is sentenced to imprisonment, then, without prejudice to the provisions of sub-section (1) or sub-section (2), a copy of the finding and sentence shall, as soon as may be after the delivery of the judgment, be given to the accused free of cost".

69. Amendment of section 375, Act V of 1898.—In sub-section (2) of section 375 of the principal Act, the words "or assessors" shall be omitted.

70. Amendment of section 376, Act V of 1898.—In section 376 of the principal Act, the words "whether tried with the aid of assessors or by jury" shall be omitted.

71. Amendment of section 382, Act V of 1898.—In section 382 of the principal Act, for the word "transportation", the word "imprisonment" shall be substituted.

72. Amendment of section 383, Act V of 1898.—In section 383 of the principal Act, for the word "transportation", the words "imprisonment for life" shall be substituted.

73. Insertion of new section 387A in Act V of 1898.—After section 387 of the principal Act, the following section shall be inserted, namely:—

"387A. Warrant for levy of fine issued by a Court in Jammu and Kashmir.—Notwithstanding anything contained in this Code or in any other law for the time being in force, when an offender

has been sentenced to pay a fine by a Criminal Court in the State of Jammu and Kashmir and the Court passing the sentence issues a warrant to the Collector of a District in the territories to which this Code extends authorising him to realise the amount by execution according to civil process against the movable or immovable property, or both, of the defaulter, such warrant shall be deemed to be a warrant issued under clause (b) of sub-section (1) of section 386 by a Court in the territories to which this Code extends and the provisions of sub-section (3) of the said section as to the execution of such warrant shall apply accordingly."

74. Amendment of section 393, Act V of 1898.—In section 393 of the principal Act, in clause (b), for the word "transportation", the words "imprisonment for life" shall be substituted.

75. Amendment of section 396, Act V of 1898.—In section 396 of the principal Act,—

(a) in sub-section (1),—

(i) after the words "of death", the words "imprisonment for life" shall be inserted;

(ii) the words "or transportation" shall be omitted;

(b) in sub-section (3), the words "or transportation, as the case may be" shall be omitted,

(c) in the *Explanation*, clause (a) shall be omitted.

76. Substitution of new section for section 397 in Act V of 1898.—For section 397 of the principal Act, the following section shall be substituted, namely:—

"397. Sentence on offender already sentenced for another offence.—(1) When a person already undergoing a sentence of imprisonment is sentenced on a subsequent conviction to imprisonment or imprisonment for life, such imprisonment or imprisonment for life shall commence at the expiration of the imprisonment to which he has been previously sentenced, unless the Court directs that the subsequent sentence shall run concurrently with such previous sentence:

Provided that where a person who has been sentenced to imprisonment by an order under section 123 in default of furnishing security is, whilst undergoing such sentence, sentenced to imprisonment for an offence committed prior to the making of such order, the latter sentence shall commence immediately.

(2) When a person already undergoing a sentence of imprisonment for life is sentenced on a subsequent conviction to imprisonment or imprisonment for life, the subsequent sentence shall run concurrently with such previous sentence."

77. Amendment of section 398, Act V of 1898.—In sub-section (2) of section 398 of the principal Act,—

(a) the words "or to a sentence of transportation" shall be omitted:

(b) the words "or transportation" shall be omitted.

78. Amendment of section 401, Act V of 1898.—To sub-section (6) of section 401 of the principal Act, the following proviso shall be added, namely:—

“Provided that in the case of any sentence (other than a sentence of fine or whipping) passed on a male person above the age of eighteen years, no such petition by the person sentenced or by any other person on his behalf shall be entertained, unless the person sentenced is in jail, and—

(a) where such petition is made by the person sentenced, it is presented through the officer in charge of the jail; or

(b) where such petition is made by any other person, it contains a declaration that the person sentenced is in jail.”

79. Amendment of section 402, Act V of 1898.—In sub-section (1) of section 402 of the principal Act, for the word “transportation”, the words “imprisonment for life” shall be substituted.

80. Amendment of section 406, Act V of 1898.—In section 406 of the principal Act,—

(a) the first proviso shall be omitted;

(b) in the second proviso, the word “further” shall be omitted.

81. Omission of section 407 in Act V of 1898.—Section 407 of the principal Act shall be omitted.

82. Amendment of section 408, Act V of 1898.—In section 408 of the principal Act,—

(a) for the words “other Magistrate of the first class”, the words “any other Magistrate” shall be substituted;

(b) for the words “by a Magistrate of the first class”, the words “by any Magistrate” shall be substituted;

(c) in the proviso, in clause (b), the words “or any sentence of transportation” shall be omitted.

83. Substitution of new section for section 409 in Act V of 1898.—For section 409 of the principal Act, the following section shall be substituted, namely:—

“409. *Appeals to Courts of Session how heard.*—(1) Subject to the provisions of this section, an appeal to the Court of Session or Sessions Judge shall be heard by the Sessions Judge or by an Additional Sessions Judge or an Assistant Sessions Judge:

Provided that no such appeal shall be heard by an Assistant Sessions Judge unless the appeal is of a person convicted on a trial held by any Magistrate of second or third class.

(2) An Additional Sessions Judge or an Assistant Sessions Judge shall hear only such appeals as the State Government may, by general or special order, direct or as the Sessions Judge of the division may make over to him.”

84. Substitution of new section for section 417 in Act V of 1898.—For section 417 of the principal Act, the following section shall be substituted, namely:—

“417. *Appeal in case of acquittal.*—(1) Subject to the provisions of sub-section (5), the State Government may, in any case,

direct the Public Prosecutor to present an appeal to the High Court from an original or appellate order of acquittal passed by any Court other than a High Court.

(2) If such an order of acquittal is passed in any case in which the offence has been investigated by the Delhi Special Police Establishment constituted under the Delhi Special Police Establishment Act, 1946 (XXXV of 1946), the Central Government may also direct the Public Prosecutor to present an appeal to the High Court from the order of acquittal.

(3) If such an order of acquittal is passed in any case instituted upon complaint and the High Court, on an application made to it by the complainant in this behalf, grants special leave to appeal from the order of acquittal, the complainant may present such an appeal to the High Court.

(4) No application under sub-section (3) for the grant of special leave to appeal from an order of acquittal shall be entertained by the High Court after the expiry of sixty days from the date of that order of acquittal.

(5) If, in any case, the application under sub-section (3) for the grant of special leave to appeal from an order of acquittal is refused, no appeal from that order of acquittal shall lie under sub-section (1)."

85. Amendment of section 423, Act V of 1898.—In section 423 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) Where an appeal from a conviction lies to the High Court, it may enhance the sentence, notwithstanding anything inconsistent therewith contained in clause (b) of sub-section (1):

Provided that the sentence shall not be so enhanced, unless the accused has had an opportunity of showing cause against such enhancement."

86. Amendment of section 426, Act V of 1898.—In section 426 of the principal Act,—

(a) in sub-section (2A), for the words "accused of a non-bailable offence", the words "convicted of a non-bailable offence" shall be substituted;

(b) in sub-section (3), for the word "transportation", the words "imprisonment for life" shall be substituted.

87. Amendment of section 428, Act V of 1898.—In sub-section (3) of section 428 of the principal Act, the words "or assessors" shall be omitted.

88. Amendment of section 465, Act V of 1898.—In sub-section (1) of section 465 of the principal Act, the words "with the aid of assessors" shall be omitted.

89. Insertion of new section 479A in Act V of 1898.—After section 479 of the principal Act, the following section shall be inserted, namely:—

"479A. *Procedure in certain cases of false evidence.*—(1) Notwithstanding anything contained in sections 476 to 479 in-

clusive, when any Civil, Revenue or Criminal Court is of opinion that any person appearing before it as a witness has intentionally given false evidence in any stage of the judicial proceeding or has intentionally fabricated false evidence for the purpose of being used in any stage of the judicial proceeding, and that, for the eradication of the evils of perjury and fabrication of false evidence and in the interests of justice, it is expedient that such witness should be prosecuted for the offence which appears to have been committed by him, the Court shall, at the time of the delivery of the judgment or final order disposing of such proceeding, record a finding to that effect stating its reasons therefor and may, if it so thinks fit, after giving the witness an opportunity of being heard, make a complaint thereof in writing signed by the presiding officer of the Court setting forth the evidence which, in the opinion of the Court, is false or fabricated and forward the same to a Magistrate of the first class having jurisdiction, and may, if the accused is present before the Court, take sufficient security for his appearance before such Magistrate and may bind over any person to appear and give evidence before such Magistrate:

Provided that where the Court making the complaint is a High Court, the complaint may be signed by such officer of the Court as the Court may appoint.

Explanation.—For the purposes of this sub-section, a Presidency Magistrate shall be deemed to be a Magistrate of the first class.

(2) Such Magistrate shall thereupon proceed according to law and as if upon complaint made under section 200.

(3) No appeal shall lie from any finding recorded and complaint made under sub-section (1).

(4) Where, in any case, a complaint has been made under sub-section (1) and an appeal has been preferred against the decision arrived at in the judicial proceeding out of which the matter has arisen, the hearing of the case before the Magistrate to whom the complaint was forwarded or to whom the case may have been transferred shall be adjourned until such appeal is decided; and the appellate Court, after giving the person against whom the complaint has been made an opportunity of being heard, may, if it so thinks fit, make an order directing the withdrawal of the complaint; and a copy of such order shall be sent to the Magistrate before whom the hearing of the case is pending.

(5) In any case, where an appeal has been preferred from any decision of a Civil, Revenue or Criminal Court but no complaint has been made under sub-section (1), the power conferred on such Civil, Revenue or Criminal Court under the said sub-section may be exercised by the appellate Court; and where the appellate Court makes such complaint, the provisions of sub-section (1) shall apply accordingly, but no such order shall be made, without giving the person affected thereby an opportunity of being heard.

(6) No proceedings shall be taken under sections 476 to 479 inclusive for the prosecution of a person for giving or fabricating

false evidence, if in respect of such a person proceedings may be taken under this section.

90. Insertion of new section 485A, in Act V of 1898.—After section 485 of the principal Act, the following section shall be inserted, namely:—

"485A. Summary procedure for punishment for non-attendance by a witness in obedience to summons.—(1) If any witness being summoned to appear before a Criminal Court is legally bound to appear at a certain place and time in obedience to the summons and without just excuse neglects or refuses to attend at that place or time or departs from the place where he has to attend before the time at which it is lawful for him to depart, and the Court before which the witness is to appear is satisfied that it is expedient in the interests of justice that such witness should be tried summarily, the Court may take cognizance of the offence and after giving the offender an opportunity of showing cause why he should not be punished under this section, sentence him to fine not exceeding one hundred rupees.

(2) In every such case the Court shall follow, as nearly as may be practicable, the procedure prescribed for summary trials in which an appeal lies."

91. Amendment of section 486, Act V of 1898.—In sub-section (1) of section 486 of the principal Act, after the word and figures "section 485", the words, figures and letter "or section 485A" shall be inserted.

92. Amendment of section 488, Act V of 1898.—In sub-section (1) of section 488 of the principal Act, for the words "one hundred rupees", the words "five hundred rupees" shall be substituted.

93. Amendment of section 489, Act V of 1898.—In sub-section (1) of section 489 of the principal Act, for the words "one hundred", the words "five hundred" shall be substituted.

94. Amendment of section 497, Act V of 1898.—In section 497 of the principal Act,—

(a) in sub-section (1),—

(i) after the words "accused of", the words "or suspected of the commission of" shall be inserted; and

(ii) for the word "transportation", the word "imprisonment" shall be substituted;

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

"(3A) If, in any case triable by a Magistrate, the trial of a person accused of any non-bailable offence is not concluded within a period of sixty days from the first date fixed for taking evidence in the case, such person shall, if he is in custody during the whole of the said period, be released on bail to the satisfaction of the Magistrate, unless for reasons to be recorded in writing, the Magistrate otherwise directs."

95. Amendment of section 498, Act V of 1898.—Section 498 of the principal Act shall be re-numbered as sub-section (1) thereof and

after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) A High Court or Court of Session may cause any person who has been admitted to bail under sub-section (1) to be arrested and may commit him to custody.”

96. Amendment of section 499, Act V of 1898.—In section 499 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) For the purpose of determining whether the sureties are sufficient, the Court may, if it so thinks fit, accept affidavits in proof of the facts contained therein relating to the sufficiency of the sureties or may make such further inquiry as it deems necessary.”

97. Amendment of section 503, Act V of 1898.—In section 503 of the principal Act,—

(a) in sub-section (1), for the words “District Magistrate or Presidency Magistrate”, the words “or any Magistrate” shall be substituted;

(b) to the said sub-section, the following proviso shall be added, namely:—

“Provided that where the examination of the President or the Vice-President or the Governor or Rajpramukh of a State as a witness is necessary for the ends of justice, a commission shall be issued for the examination of such a witness”;

(c) sub-section (2) shall be omitted.

98. Amendment of section 505, Act V of 1898.—In sub-section (1) of section 505 of the principal Act, the words “of the first class” shall be omitted.

99. Amendment of section 510, Act V of 1898.—Section 510 of the principal Act shall be re-numbered as sub-section (1) thereof, and—

(a) in sub-section (1) as so re-numbered, after the words “Examiner to Government”, the words “or the Chief Inspector of Explosives or the Director of Finger Print Bureau or an officer of the Mint” shall be inserted;

(b) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) The Court may, if it thinks fit, and shall, on the application of the prosecution or the accused, summon and examine any such person as to the subject-matter of his report.”

100. Insertion of new section 510A in Act V of 1898.—After section 510 of the principal Act, the following section shall be inserted, namely:—

“510A. *Evidence on affidavits.*—(1) The evidence of any person whose evidence is of a formal character may be given by affidavit and may, subject to all just exceptions, be read in evidence in any inquiry trial or other proceeding under this Code.

(2) The Court may, if it thinks fit, and shall, on the application of the prosecution or the accused, summon and examine any such person as to the facts contained in his affidavit."

101. Amendment of section 512, Act V of 1898.—In sub-section (2) of section 512 of the principal Act, for the word "transportation", the words "imprisonment for life" shall be substituted.

102. Amendment of section 516A, Act V of 1898.—In section 516A of the principal Act, after the words "speedy or natural decay", the words "or if it is otherwise expedient so to do, the Court" shall be inserted.

103. Amendment of section 526, Act V of 1898.—In section 526 of the principal Act,—

(a) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) Notwithstanding anything contained in sub-section (1), no application shall lie to the High Court for the exercise of its powers under the said sub-section for transferring any case from one Criminal Court to another Criminal Court in the same sessions division, unless an application for such transfer has been made to the Sessions Judge and rejected by him.";

(b) in sub-section (8),—

(i) after the words "make an application under this section", the words and figures "or under section 528" shall be inserted; and

(ii) in the proviso, after the words "from the same party", the words "if the application is intended to be made to the same Court to which the party has been given an opportunity of making such an application" shall be inserted.

104. Amendment of section 528, Act V of 1898.—In section 528 of the principal Act,—

(a) in sub-section (1), for the words "any case" wherever they occur, the words "any case or appeal" shall be substituted;

(b) in sub-section (1B), for the words, brackets, figures and letter "recalls a case under sub-section (1) or recalls a case or appeal under sub-section (1A)", the words, brackets, figures and letter "recalls a case or appeal under sub-section (1) or sub-section (1A)" shall be substituted;

(c) after sub-section (1B), the following sub-section shall be inserted, namely:—

"(1C) Any Sessions Judge, on an application made to him in this behalf, may, if he is of opinion that it is expedient for the ends of justice, order that any particular case be transferred from one Criminal Court to another Criminal Court in the same sessions division."

105. Substitution of new section for section 536 in Act V of 1898.—For section 536 of the principal Act, the following section shall be substituted, namely:—

“536. Trial without jury of offences triable by jury.—If an offence triable by a jury is tried without a jury, the trial shall not on that ground only be invalid, unless the objection is taken before the Court proceeds to record evidence in the case.”

106. Amendment of section 537, Act V of 1898.—In section 537 of the principal Act,—

- (i) in clause (a), the word “charge” shall be omitted;
- (ii) after clause (a), the following clause shall be inserted, namely:—

“(b) of any error, omission or irregularity in the charge, including any misjoinder of charges, or”;

- (iii) in clause (c), the words “or assessors” shall be omitted.

107. Substitution of new sections for section 539A in Act V of 1898.—For section 539A of the principal Act, the following sections shall be substituted, namely:—

“539A. Affidavit in proof of conduct of public servant.—(1) When any application is made to any Court in the course of any inquiry, trial or other proceeding under this Code, and allegations are made therein respecting any public servant, the applicant may give evidence of the facts alleged in the application by affidavit, and the Court may, if it thinks fit, order that evidence relating to such facts be so given.

(2) Affidavits under this section shall be confined to, and shall state separately, such facts as the deponent is able to prove from his own knowledge and such facts as he has reasonable ground to believe to be true, and in the latter case, the deponent shall clearly state the grounds of such belief.

539AA. Authorities before whom affidavits may be sworn.—

(1) An affidavit to be used before any Court other than a High Court under section 510A or section 539A may be sworn or affirmed in the manner prescribed in section 539 or before any Magistrate.

(2) The Court may order any scandalous and irrelevant matter in the affidavit to be struck out or amended.”

108. Amendment of section 539B, Act V of 1898.—In sub-section (2) of section 539B of the principal Act, in the proviso,—

- (i) the words “or with the aid of assessors” shall be omitted;
- (ii) the words “or assessors” shall be omitted.

109. Amendment of section 540A, Act V of 1898.—For sub-section (1) of section 540A of the principal Act, the following sub-section shall be substituted, namely:—

“(1) At any stage of an inquiry or trial under this Code, if the Judge or Magistrate is satisfied, for reasons to be recorded, that the personal attendance of the accused before the Court is

not necessary in the interests of justice, the Judge or Magistrate may, if the accused is represented by a pleader, dispense with his attendance and proceed with such inquiry or trial in his absence, and may, at any subsequent stage of the proceedings, direct the personal attendance of such accused."

110. Amendment of section 545, Act V of 1898.—In sub-section (1) of section 545 of the principal Act,—

(i) for the words "a sentence of which fine forms a part" the words and brackets "a sentence (including a sentence of death) of which fine forms a part" shall be substituted;

(ii) after clause (b), the following clause shall be inserted, namely:—

"(bb) when any person is convicted of any offence for having caused the death of another person or of having abetted the commission of such an offence, in paying compensation to the persons who are, under the Fatal Accidents Act, 1855 (XIII of 1855), entitled to recover damages from the person sentenced for the loss resulting to them from such death."

111. Insertion of new section 555A in Act V of 1898.—After section 555 of the principal Act, the following section shall be inserted, namely:—

"555A. *Power of High Court to make rules in respect of petition writers.*—(1) Every High Court may, from time to time, and with the previous approval of the State Government, make rules—

(a) as to the persons who may be permitted to act as petition writers in the Criminal Courts subordinate to it;

(b) regulating the issue of licence to such persons, the conduct of business by them, and the scale of fees to be charged by them; and

(c) providing a penalty for a contravention of any of the rules so made and determining the authority by which such contravention may be investigated and the penalties imposed:

Provided that the rules made under this section shall not be inconsistent with this Code or any other law in force for the time being.

(2) All rules made under this section shall be published in the Official Gazette."

112. Amendment of section 562, Act V of 1898.—In sub-section (1) of section 562 of the principal Act, for the words "transportation for life", the words "imprisonment for life" shall be substituted.

113. Amendment of section 565, Act V of 1898.—In sub-section (1) of section 565 of the principal Act, the words "transportation or" shall be omitted.

114. Amendment of Schedule II to Act V of 1858.—In Schedule II to the principal Act,—

(a) for the entries relating to section 500, section 501 and section 502, the following entries shall be substituted, namely:—

1	2	3	4	5	6	7	8
"500	(a) Defamation (other than defamation by spoken words) against the President or the Vice-President or the Governor or Rajpramukh of a State or a Minister or any other public servant employed in connection with the affairs of the Union or of a State in respect of his conduct in the discharge of his public functions, when instituted upon a complaint made by the Public Prosecutor.	Shall not arrest without warrant.	Warrant.	Bailable.	Compoundable with the permission of the Court before which the prosecution is pending.	Simple imprisonment for two years or fine or both.	Court of Session.
	(b) Defamation in any other case.	Ditto.	Ditto.	Ditto.	Compoundable.	Ditto.	Court of Session, Presidency Magistrate or Magistrate of the first class.
501	(a) Printing or engraving matter knowing it to be defamatory against the President or the Vice-President or the Governor or Rajpramukh of a State or a Minister or any other public servant employed in connection with the affairs of the Union or of a State in respect of his conduct in the discharge of his public functions, when instituted upon a complaint made by the Public Prosecutor.	Ditto.	Ditto.	Ditto.	Compoundable with the permission of the Court before which the prosecution is pending.	Ditto.	Court of Session.

1	2	3	4	5	6	7	8
	(b) Printing or engraving matter knowing it to be defamatory, in any other case.	Shall not arrest without warrant.	Warrant	Bailable.	Compoundable.	Simple imprisonment for two years or fine or both.	Court of Session, Presidency Magistrate or Magistrate of the first class.
502	(a) Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter against the President or the Vice-President or the Governor or Rajpramukh of a State or a Minister or any other public servant employed in connection with the affairs of the Union or of a State in respect of his conduct in the discharge of his public functions, when instituted upon a complaint made by the Public Prosecutor.	Ditto.	Ditto.	Ditto.	Compoundable with the permission of the Court before which the prosecution is pending.	Ditto.	Court of Session.
	(b) Sale of printed or engraved substance containing defamatory matter knowing it to contain such matter, in any other case.	Ditto.	Ditto.	Ditto.	Compoundable.	Ditto.	Court of Session, Presidency Magistrate or Magistrate of the first class."

(b) in the entries relating to sections 161, 162, 163, 164 and 165, in the 3rd column, for the words "Shall not arrest without warrant" wherever they occur, the words "May arrest without warrant" shall be substituted;

(c) in the entries relating to sections 344, 421, 422, 423, 424, 428 and 429, in the 6th column, for the words "Not compoundable" wherever they occur, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted;

(d) in the entries relating to sections 379, 381, 406, 407 and 408 in the 6th column, for the words, "Not compoundable" wherever they occur, the words "Compoundable when the value of the property does not exceed two hundred and fifty rupees and permission is given by the Court before which the prosecution is pending" shall be substituted.

(e) in the 2nd column and the 7th column,—

(i) for the words, "transportation for life" wherever they occur, the words "imprisonment for life" shall be substituted;

(ii) any reference to transportation for any term or to transportation for any shorter term shall be omitted.

(iii) for the word "transportation" wherever it occurs, if it means transportation for life, the words "imprisonment for life" shall be substituted; and the word "transportation" wherever it occurs, if it means transportation for any shorter term, shall be omitted.

115. Amendment of Schedule V to Act V of 1898.—In Schedule V to the principal Act,—

(a) in Form XXXII, the words "and Assessors", wherever they occur shall be omitted;

(b) in Form XXXIII, the words "Assessors or" and the words "and Assessor" shall be omitted;

(c) in Form XXXVI,—

(i) for the words "transportation for life", the words "imprisonment for life" shall be substituted;

(ii) for the word "transportation", the words "imprisonment for life" shall be substituted.

116. Savings.—Notwithstanding that all or any of the provisions of this Act have come into force in any State,—

(a) the provisions of section 14 or section 30 or section 145 or section 146 of the principal Act as amended by this Act shall not apply to, or affect, any trial or other proceeding which, on the date of such commencement, is pending before any Magistrate, and every such trial or other proceeding shall be continued and disposed of as if this Act had not been passed;

(b) the provisions of section 406 or section 408 or section 409 of the principal Act as amended by this Act shall not apply to, or affect, any appeal which, on the date of such commencement, is pending before the District Magistrate or any Magistrate of the first class empowered by the State Government to hear

such appeals, and every such appeal shall, notwithstanding the repeal of the first proviso to section 406 or of section 407 of the principal Act, be heard and disposed of as if this Act had not been passed;

(c) the provisions of clause (w) of section 4 or section 207A or section 251A or section 260 of the principal Act as amended by this Act shall not apply to, or affect, any inquiry or trial before a Magistrate in which the Magistrate has begun to record evidence prior to the date of such commencement and which is pending on that date, and every such inquiry or trial shall be continued and disposed of as if this Act had not been passed;

(d) the provisions of Chapter XXIII of the principal Act as amended by this Act shall not apply to, or affect, any trial before a Court of Session either by jury or with the aid of assessors in which the Court of Session has begun to record evidence prior to the date of such commencement and which is pending on that date, and every such trial shall be continued and disposed of as if this Act had not been passed;

but, save as aforesaid, the provisions of this Act and the amendments made thereby shall apply to all proceedings instituted after the commencement of this Act and also to all proceedings pending in any Criminal Court on the date of such commencement.

117. Amendment of Act XLV of 1860, Act X of 1873 and Act IX of 1908.—The Indian Penal Code (Act XLV of 1860), the Indian Oaths Act, 1873 (X of 1873) and the Indian Limitation Act, 1908 (IX of 1908) shall be amended in the manner specified in the Schedule.

THE SCHEDULE

(See section 117)

A. AMENDMENTS TO THE INDIAN PENAL CODE (ACT XLV OF 1860)

1. In section 53, for the words "Secondly,—Transportation" the words "Secondly,—Imprisonment for life" shall be substituted.

2. After section 53, the following section shall be inserted, namely:—

"53A. Construction of reference to transportation.—(1) Subject to the provisions of sub-section (2) and sub-section (3), any reference to "transportation for life" in any other law for the time being in force or in any instrument or order having effect by virtue of any such law or of any enactment repealed shall be construed as a reference to "imprisonment for life".

(2) In every case in which a sentence of transportation for a term has been passed before the commencement of the Code of Criminal Procedure (Amendment) Act, 1954, the offender shall be dealt with in the same manner as if sentenced to rigorous imprisonment for the same term.

(3) Any reference to transportation for a term or to transportation for any shorter term (by whatever name called) in any other law for the time being in force shall be deemed to have been omitted.

(4) Any reference to "transportation" in any other law for the time being in force shall,—

(a) if the expression means transportation for life, be construed as a reference to imprisonment for life;

(b) if the expression means transportation for any shorter term, be deemed to have been omitted."

3. In section 55 and section 57, for the word "transportation" wherever it occurs, the word "imprisonment" shall be substituted.

4. Section 58 and section 59 shall be omitted.

5. In section 75, section 115, section 118 and section 119, for the words "transportation for life" wherever they occur, the words "imprisonment for life", shall be substituted.

6. In sub-section (1) of section 120B, for the word "transportation", the words "imprisonment for life" shall be substituted.

7. In section 121, for the words "transportation for life", the words "imprisonment for life" shall be substituted.

8. In section 121A, for the words "transportation for life or any shorter term", the words "imprisonment for life" shall be substituted.

9. In section 122, for the words "transportation for life", the words "imprisonment for life" shall be substituted.

10. In section 124A, for the words "transportation for life or any shorter term", the words "imprisonment for life" shall be substituted.

11. In section 125, section 128, section 130, section 131, section 132 and section 194, for the words "transportation for life", the words "imprisonment for life" shall be substituted.

12. In section 195, for the words "transportation for life" and "such transportation" wherever they occur, the words "imprisonment for life" shall be substituted.

13. In section 201, section 211, section 212, section 213, section 214, section 216 and section 221, for the words "transportation for life" wherever they occur, the words "imprisonment for life" shall be substituted.

14. In section 222 and section 225,—

(i) for the words "transportation for life" wherever they occur, the words "imprisonment for life" shall be substituted;

(ii) the word "transportation" shall be omitted.

15. Section 226 shall be omitted.

16. In section 232, section 238, section 255, section 302, section 303, section 304, section 305, section 307, section 311, section 313, section 314, section 326, section 329, section 364, section 371, section 376, section 377, section 388, section 389, section 394, section 395, section 396, section 400, section 409, section 412, section 413, section 436, section 438, section 449, section 450, section 459, section 460, section

467, section 472, section 474, section 475, section 477, section 489A, section 489B and section 489D, for the words "transportation for life" wherever they occur, the words "imprisonment for life" shall be substituted.

17. In section 506, for the word "transportation", the words "imprisonment for life" shall be substituted.

18. In section 511,—

(i) for the word "transportation" where it occurs for the first time, the words "imprisonment for life" shall be substituted;

(ii) for the words "transportation or imprisonment of any description provided for the offence, for a term of transportation or imprisonment which may extend to one-half of the longest term provided for that offence", the following words shall be substituted:—

"imprisonment of any description provided for the offence, for a term which may extend to one-half of the imprisonment for life or, as the case may be, one-half of the longest term of imprisonment provided for that offence".

B. AMENDMENT TO THE INDIAN OATHS ACT, 1873 (X OF 1873)

In section 5, after the words "oath or affirmation to the accused person", the words "unless he is examined as a witness for the defence" shall be inserted.

C. AMENDMENT TO THE INDIAN LIMITATION ACT, 1908 (IX OF 1908)

In the Third Division of the First Schedule, in article 157, for the entry in the second column, the entry "three months" shall be substituted.

K. Y. BHANDARKAR.

Secy. to the Govt. of India.